

For the Congressional Record
February 2, 2012

**Statement of Congressman Pete Stark
In Support of Fair Trials and Access to Counsel for those with
Mental Disabilities**

MR. STARK: Mr. Speaker, I rise to introduce the Ensuring Mental Competence in Immigration Proceedings Act. My legislation will make immigration proceedings more fair and humane for individuals with mental disabilities, and help prevent wrongful deportations and indefinite detentions. Specifically, this bill amends the Immigration and Nationality Act to ensure that immigration judges will have the authority to stop proceedings or appoint counsel when an individual is not competent enough to represent him or herself due to a mental disability.

The status quo isn't working. Judges who in good faith have terminated deportation cases because of a person's inability to participate based on mental disability have had their decisions overturned. Consequently, these cases end up in an ongoing loop that keeps these individuals in costly, inhumane detention or results in their unfair deportation.

Examples of immigrants and U.S. citizens with mental disabilities who have been unjustly detained or deported include:

- An immigrant from Mexico with severe cognitive disabilities who was declared incompetent by an immigration judge in which he was unrepresented by counsel. His case was put on hold and the Department of Homeland Security allowed him to linger in detention for four and a half years, at a cost to taxpayers of about \$300,000;
- A 50-year old legal permanent resident with schizophrenia who had lived in New York more than 30 years was ordered by a New York court to serve 90 days in a mental institution for trespassing. Instead, he was transferred to a detention facility in Texas, where he received no medication for weeks. He then faced a proceeding without counsel, and was deported to the Dominican Republic so quickly that his family did not know what had happened to him until he was gone;

- A citizen who had bipolar disorder and developmental disabilities was deported to Mexico, and subsequently to Honduras and Guatemala. It took four months to return him to him United States. ICE officials claim that he signed a statement indicating he was a Mexican national – he was not.

All of these events could have been avoided if immigration judges had the tools they need to properly adjudicate cases involving individuals with mental disabilities, and if these individuals had access to counsel. We cannot allow citizens and immigrants to be wrongly deported or remain in indefinite detention simply because they have a mental disability. By granting judges the ability to discontinue proceedings when an individual is mentally incompetent or to appoint counsel so that the individual receives a fair adjudication, this bill will reduce the costs of long detentions and delayed proceedings and make our immigration system more just.

The National Association of Immigration Judges has asked Congress for reform. Over fifty organizations including Human Rights Watch, the National Disability Rights Network, the American Civil Liberties Union and the American Immigration Lawyers Association endorse the Ensuring Mental Competence in Immigration Proceedings Act. This legislation is the right thing to do for mentally incompetent detainees, for our courts, and for taxpayers. I urge my colleagues to support this bill.